

CHANGES WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Changes to Title 18. Public Revenue

Regulation 1602.5, *Reporting Methods for Grocers*
Regulation 1700, *Reimbursement for Sales Tax*

A. Factual Basis

Subdivision (b)(1)(G) of California Code of Regulations, title 18, section (Regulation) 1602.5, *Reporting Methods for Grocers*, includes an example showing how grocers can calculate the applicable sales and use tax using the purchase-ratio method. Subdivision (b)(5)(A) of Regulation 1700, *Reimbursement for Sales Tax*, contains two examples showing how retailers can mistakenly calculate and collect excess tax reimbursement in transactions involving discounts and trading stamps. However, the example in Regulation 1602.5 and the examples in Regulation 1700 use an out-dated 6 percent tax rate,¹ which does not currently apply anywhere in California. Therefore, the State Board of Equalization (Board) proposes to update all three examples so that they utilize an 8.25 percent tax rate² because California sales and use tax rates currently range from 8.25 percent to 10.75 percent, and 8.25 percent will continue to be the operative rate in some areas of California after the temporary 1 percent tax rate increase authorized by Revenue and Taxation Code sections 6051.7 and 6201.7 expires.³

The Board has determined that the changes to Regulation 1602.5 and 1700 are appropriate for processing under Rule 100 because they merely change the tax rates used in examples, not the actual tax rates that apply to specific transactions, and therefore do not have any regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

B. Proposed Changes to Regulation 1602.5

Proposed changes to Regulation 1602.5:

Regulation 1602.5. Reporting Methods for Grocers.

(a) Food Products Exemption-In General. . . . (unchanged).

(b) Reporting Methods. . . . (unchanged).

¹ The tax rate refers to the cumulative rates at which the state sales and use tax (Rev. & Tax Code, § 6001 et seq.), the Bradley-Burns Uniform Local Sales and Use Tax (Rev. & Tax. Code, § 7200 et seq.), and local Transactions and Use Tax are computed in a given jurisdiction, such as a city or county.

² For ease of reference, there is a chart available at <http://www.boe.ca.gov/news/sp111500att.htm>, which shows each component of the 8.25 percent rate.

³ For ease of reference, the specific sales and use tax rates applicable in the various California cities and counties are available on the Board's Website at <http://www.boe.ca.gov/sutax/pam71.htm>.

(1) Purchase-Ratio Method. . . . (unchanged).

(A) . . . (unchanged).

(B) . . . (unchanged).

(C) . . . (unchanged).

(D) . . . (unchanged).

(E) . . . (unchanged).

(F) . . . (unchanged).

1. . . . (unchanged).

2. . . . (unchanged).

3. . . . (unchanged).

4. . . . (unchanged).

A. . . . (unchanged).

B. . . . (unchanged).

C. . . . (unchanged).

(G) Sales tax reimbursement collected in accordance with Regulation 1700 which is included in total sales is an allowable deduction. An example of the computation of the purchase-ratio method which provides for an adjustment for sales tax included follows:

1. Taxable grocery purchases.....	\$40,000
2. Add sales tax adjustment (68.25 % * x Item 1).....	<u>2,400</u> 3,300
3. Adjusted taxable grocery purchases (Item 1 + Item 2).....	<u>42,400</u> 43,300
4. Exempt food products purchases.....	130,000
5. Total grocery purchases including sales tax (Item 3 + Item 4).....	<u>172,400</u> 173,300
6. Exempt food products ratio (Item 4 divided by Item 5).....	<u>75.41</u> 75.01%
7. Total sales including sales tax.....	254,088
8. Nongrocery taxable sales including sales tax (if such sales are not accurately segregated, mark up nongrocery taxable cost of goods sold to compute sales-add 68.25 % * sales tax to total)**.....	31,500
9. Grocery sales including sales tax (Item 7 - Item 8).....	222,588
10. Exempt food products sales (Item 6 x Item 9).....	<u>167,854</u> 166,963
11. Sales of taxable items including sales tax (Item 7 - Item 10).....	<u>86,234</u> 87,125

12. Less taxable items purchased with food stamps (2% of total food stamps redeemed for period, e.g., 2% x \$100,000).....	2,000
13. Taxable Measure including sales tax (Item 11 - Item 12).....	<u>84,234,851.25</u>
14. Sales tax included (6/10 <u>68.25/108.25</u> * x Item 13).....	<u>4,768,488</u>
15. Measure of tax (Item 13 - Item 14).....	<u>79,466,363.25</u>
16. Sales tax payable (<u>68.25</u> %* x Item 15).....	<u>4,768,488</u>

(2) Modified Purchase-Ratio Method. . . . (unchanged).

(3) Retail Inventory Method and Markup Method. . . . (unchanged).

(A) . . . (unchanged).

1. . . . (unchanged).

2. . . . (unchanged).

3. . . . (unchanged).

4. . . . (unchanged).

5. . . . (unchanged).

6. . . . (unchanged).

(B) . . . (unchanged).

1. . . . (unchanged).

2. . . . (unchanged).

A. . . . (unchanged).

B. . . . (unchanged).

a. . . . (unchanged).

b. . . . (unchanged).

c. . . . (unchanged).

d. . . . (unchanged).

C. . . . (unchanged).

D. . . . (unchanged).

E. . . . (unchanged).

F. . . . (unchanged).

(4) Electronic Scanning Systems. . . . (unchanged).

(c) Food Stamps. . . . (unchanged).

(d) Shrinkage. . . . (unchanged).

(1) . . . (unchanged).

(2) . . . (unchanged).

(e) List of Methods Not Exhaustive. . . . (unchanged).

(f) Audits. . . . (unchanged).

* Use applicable tax rate -tax rate of 68.25% used for illustration purposes.

** . . . (unchanged).

¹ . . . (unchanged).

Note: Authority cited: Sections 7051 and 7051.5, Revenue and Taxation Code. Reference: Sections 6359 and 6373, Revenue and Taxation Code.

C. Proposed Changes to Regulation 1700

Proposed changes to Regulation 1700

Regulation 1700. Reimbursement for Sales Tax.

(a) Reimbursement for Sales Tax.

(1) Addition of Sales Tax Reimbursement. . . . (unchanged).

(2) Presumptions. . . . (unchanged).

(A) . . . (unchanged).

(B) . . . (unchanged).

(C) . . . (unchanged).

1. . . . (unchanged).

2. . . . (unchanged).

(3) Reimbursement Schedules. . . . (unchanged).

(b) Excess Tax Reimbursement.

(1) Definition. . . . (unchanged).

(2) Procedure upon Ascertainment of Excess Tax Reimbursement. . . . (unchanged).

(3) Evidence Sufficient to Establish that Excess Amounts have been or will be Returned to Customer. . . . (unchanged).

(A) . . . (unchanged).

1. . . . (unchanged).

2. . . . (unchanged).

(B) . . . (unchanged).

1. . . . (unchanged).

2. . . . (unchanged).

(4) Offsets. . . . (unchanged).

(5) Particular Applications. (Examples at 68.25 percent tax rate.)

(A) Discounts and trading stamps.

1. Discounts. A retailer who allows discounts on sales prices but charges customers tax reimbursement computed upon the prices before the discount is deducted is collecting excess reimbursement.

For example, a sale is made for \$100 plus \$68.25 as tax reimbursement. Upon payment for the item the purchaser is allowed a discount of 20 percent of the sales price of \$100 but the \$68.25 tax reimbursement is excluded from the computation. Since the retailer is deducting the amount of the discount, \$20, from taxable gross receipts, the retailer is actually paying a tax of only \$4.806.60, i.e., 68.25 percent of \$80, and has retained excessive tax reimbursement of \$1.201.65.

2. Trading Stamps. A retailer who issues trading stamps or similar evidences of patronage may deduct as cash discounts the cost to the retailer of the stamps or other indicia (hereinafter called "stamps") issued in connection with taxable retail sales. A retailer who deducts the cost of stamps as a cash discount in computing the tax payable to the state, but who charges tax reimbursement on the full sales price of the

goods, collects more tax reimbursement than the retailer pays to the state. The following illustration shows why this is true: If a retailer collects sales tax reimbursement of \$68.25 on a \$100 sale but gives the customer trading stamps which cost the retailer \$2 and then deducts the \$2 as a cash discount when reporting taxable receipts, the retailer will pay a tax of only ~~\$5.88~~8.08 (68.25 percent of \$98).

The retailer must follow one of the three following procedures:

a. . . . (unchanged).

b. . . . (unchanged).

c. . . . (unchanged).

(B) . . . (unchanged).

(C) . . . (unchanged).

(D) . . . (unchanged).

(6) Rights of Customers. . . . (unchanged).

Note: Authority cited: Section 7051, Revenue and Taxation Code. Reference: Section 6901.5, Revenue and Taxation Code; and Section 1656.1, Civil Code. Leases, see also regulation 1660; Meals, tips and other charges as tax-included amounts, see regulation 1603; "Free meals," charging reimbursement on, see regulation 1670; Trading stamps generally, see regulation 1671; Trade-ins generally, see regulation 1654.